



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Via E-Mail and First-Class Mail

September 12, 2012

Mr. David A. Rockman, Esq.
Eckert Seamans Cherin & Mellott, LLC U.S.
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

RE: North Penn 5 NPL Site, Operable Unit 2 ("Site")
Draft Title Notice and proof of recording as required by
Administrative Order (Docket No. CERCLA-03-2012-02025DC)

Dear Mr. Rockman:

This letter responds to your August 27, 2012 letter containing a draft Title Notice and proof of recording a certified copy of the above-referenced Administrative Order (Order) with the Record of Deeds Office for Montgomery County, Pennsylvania. This letter provides EPA's approval of the Title Notice pursuant to Paragraph 85 of the Order, provided that the comments indicated on the enclosed draft Title Notice are incorporated prior to its being recorded.

In accordance with Paragraph 85 of the Order, the Owner Respondent shall record the revised Title Notice ten (10) days of this approval with comments and provide EPA with a certified copy of the recorded Title Notice within ten (10) days of recording. EPA recommends that the Hatfield Township Industrial Development Authority (HTIDA) also record the Title Notice. If you or the HTIDA have any questions about this, please contact Allison Gardner, the Senior Assistant Regional Counsel assigned to this case, at (215) 814-2631.

If you should have further questions, please call me at (215) 814-3018.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Fang", is written over the typed name Sharon Fang.

Sharon Fang, P.E.
Remedial Project Manager

Enclosure

cc: A. Gardner, EPA
J. Bolstein, Fox Rothschild, LLP
D. Nunn, Eastman & Smith, LTD

Attachment to September 12, 2012 letter

**Comments on draft Title Notice
North Penn 5, OU-2**



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Customer Service Hotline: 1-800-438-2474***

Prepared by: David A. Rockman, Esq.
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower, 600 Grant St., 44th Fl.
Pittsburgh, PA 15219

Returned to: David A. Rockman, Esq.
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower, 600 Grant St., 44th Fl.
Pittsburgh, PA 15219

Tax Parcel No. 46-00-00613-18-7
Address: 92 County Line Road, Colmar, Pennsylvania

NOTICE OF ACCESS OBLIGATIONS AND USE OR PROPERTY

This Notice of Access Obligations and Use of Property ("Declaration") is made this _____ day of _____, 2012, by **Constantia Colmar, Inc. formerly known as H&N Packaging, Inc.** ("Constantia" and sometimes referred to herein as a "Respondent" and as the "Declarant"), having an address of 92 County Line Road, Colmar, Pennsylvania.

I. RECITALS

WHEREAS, Constantia is the Lessee, pursuant to that certain unrecorded Lease dated May 1, 1999, between Hatfield Township Industrial Development Authority as Lessor and H&N Packaging, Inc. as Lessee, of certain real property, Tax Parcel Number 46-00-00613-18-7, located at 92 County Line Road, Colmar, Montgomery County, Pennsylvania (the "Property"), which is a portion of the North Penn Area 5 Superfund Site (the "Site), in the vicinity of Hatfield and New Britain Townships, in Montgomery and Bucks Counties, Pennsylvania, and which encompasses five square-miles generally bounded by Richard Road to the southeast, Bethlehem Pike (Route 309) to the west, Trewigtown Road to the northwest and Schoolhouse Road to the

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A handwritten signature in cursive script, appearing to read "Richardson", is written over the bottom right portion of the page. A small circle is drawn around the word "Richard" in the text "generally bounded by Richard Road" just above the signature.

east. A legal description of the Property is attached hereto as Exhibit A. The Site is roughly depicted on the map attached hereto as Exhibit B; and

WHEREAS, "hazardous substances," as that term is defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9601(14), were disposed of at the Property during historic gas piston and other similar types of manufacturing and/or other operations at the Property that occurred prior to any activities by Constantia at the Property and prior to Constantia's lease of the Property. In particular, trichloroethylene ("TCE") and other volatile organic compounds ("VOCs"), associated with former operations at the Property, ~~has~~ *have* been found in soils and groundwater at and beneath the Property;

WHEREAS, in 1986, the United States Environmental Protection Agency ("EPA") completed an assessment of contamination in the area of north-central Montgomery County, Pennsylvania, known as the "North Penn Area," which included a number of contaminated sites, including the North Penn 5 Site;

WHEREAS, pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the CERCLA National Priorities List ("NPL"), set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on March 31, 1989, 54 Fed. Reg. 13296;

WHEREAS, in 1998, EPA initiated a fund-lead Remedial Investigation and Feasibility Study ("RI/FS") at the Site. The RI/FS separated the Site into three primary areas of groundwater contamination indentified as Operable Unites ("OUs"). The Property is located within OU2;

WHEREAS, pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notification of the proposed plan for interim remedial action at OU2 at the Site on September 15, 2008, and provided opportunity for public comment on the proposed interim remedial action.

WHEREAS, on September 7, 2011, EPA issued a Record of Decision ("ROD") for OU2 the Site that embodied EPA's decision on the interim remedial action to be completed at OU2, and on which the Commonwealth of Pennsylvania ("Commonwealth") concurred. Notice of the ROD was published in accordance with Section 117(b) of CERCLA, 42 U.S.C. § 9617(b). The ROD generally requires further delineation of the VOC contamination and remedial activities in OU2, namely, bioaugmentation application in the overburden;

WHEREAS, on June 26, 2012, EPA issued an Administrative Order for Remedial Design and Remedial Action (Docket No. CERCLA-03-2012-0205DC) ("Order"), pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), to Respondents Constantia Colmar, Inc., Stabilus, Inc. and ZF Sachs Automotive of America, Inc. (each a "Respondent"), ordering them to implement the response actions selected by the ROD through performing the Work required by the Order. The Order is attached hereto as Exhibit C;

WHEREAS, in the Order, each Respondent that owns or controls access to the ~~Property~~ ^{property} is required to (a) authorize access to the Site to EPA and the Commonwealth of Pennsylvania and its respective authorized representatives, employees, agents, consultants, or contractors for the purposes of conducting any activity related to the Order, to the extent such access is owned or controlled by such Respondent, (b) refrain from using the Site, or such other property, in any manner that would interfere with or adversely affect the integrity or protectiveness of the response actions to be implemented pursuant to the Order; (c) refrain from using the Site, or such

Site and/or other property where access and/or land use restrictions are needed to implement any part of the ROD.

other property, for any purpose which might interfere with, obstruct, or disturb the performance, support, or supervision of the Work, including any Operation and Maintenance activities, taken pursuant to the Order; (d) restrict the use of the Site to those use restrictions identified in Section 12.2.4 of the September 7, 2011 ROD; (e) cooperate with EPA's efforts to secure any necessary governmental controls beyond those set forth in the ROD; and (f) provide certain notifications to EPA and potential grantees or transferees-in-interest to the Property should any Respondent Owner convey an interest in all or a portion of the Property;

WHEREAS, Section 12.2.4 of the ROD requires implementation of institutional controls to protect the integrity of the interim remedy and to prevent exposure to site-related contamination;

WHEREAS, the Order defines "Work" as all activities Respondents are required to perform under the Order, including, but not limited to, Remedial Design, Remedial Action, implementation of Institutional Controls, O&M, tasks to be performed in accordance with any EPA-approved Work Plan required by the Order, and any other activities required to be undertaken pursuant to the Order;

II. DECLARATION OF ACCESS OBLIGATIONS, USE OF PROPERTY, AND RESERVATIONS

NOW, THEREFORE, intending to fulfill the terms of the Order, Constantia files this notice that use of the Property is subject to the advisories set forth below.

1. Purpose: It is the purpose of this instrument to provide notice of the obligations under the Order of any owner of the Property (an "Owner") or anyone controlling the Property. These obligations are to (i) provide access to the Property for the purpose of implementing the Order; (ii) comply with use restrictions concerning the Site set forth in Paragraph 3 below; and (iii)

provide certain notifications to EPA and potential grantees or transferees-in-interest to the Property should an Owner convey an interest in all or a portion of the Property set forth in Paragraph 4 below.

Access: The following advisory applies to access to the Property:

Commencing on the Effective Date of the Order and thereafter, provide access to EPA and the Commonwealth and its respective authorized representatives, employees, agents, consultants, or contractors for the purpose of conducting any activity related to the Order including, but not limited to, the following activities:

- (1) Performing and Monitoring the Work;
- (2) Verifying any data or information submitted by the Respondents to EPA or the Commonwealth;
- (3) Conducting investigations relating to contamination at or near the Site;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- (6) Assessing implementation of quality assurance and quality control practices as defined in the approved CQAP;
- (7) Implementing the Work pursuant to the conditions set forth in Paragraph 105 of the Order (Work Takeover);
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents, consistent with Section XVIII of the Order (Access to Information);

- (9) Assessing Respondents' compliance with the Order;
- (10) Determining whether the Site or other property is being used in a manner that is prohibited, or restricted, or that may need to be prohibited or restricted; and
- (11) Implementing, monitoring, maintaining, reporting on and enforcing any Institutional Controls and the requirements of the Institutional Controls Plan.

Restrictions on Use: The following advisories apply to use of the Property:

A. Commencing on the Effective Date of the Order and thereafter, refrain from using the Property in a manner that would interfere with or adversely affect the integrity or protectiveness of the response actions to be implemented pursuant to the Order. In addition, any Owner shall refrain from using the Property for any purpose which might interfere with, obstruct, or disturb the performance, support, or supervision of the Work under the Order, including any Operation and Maintenance activities, taken pursuant to the Order. The restrictions on use of the ~~Site~~ ^{Property} shall including, but not be limited to, the use restrictions identified in Section 12.2.4 of the September 7, 2011 ROD.

B. ~~The Order requires if~~ EPA determines that land use restrictions in the form of Commonwealth or local laws, regulations, ordinances, or other governmental controls beyond those set forth in the September 7, 2011 ROD are needed to implement the remedy selected in the September 7, 2011 ROD, ensure the integrity and protectiveness thereof, or ensure non-interference therewith, ~~(any Respondent Owner shall cooperate with EPA's efforts to secure such governmental controls)~~ ^{Step}

Provision of Certain Notifications: The following advisory applies to the provision of certification notification to EPA and potential grantees or transferees-in-interest required by the Order

A. With respect to the Property, the Order requires each Respondent that owns or controls any part of the Site to record this Title Notice with the Recorder of Deeds Office, Montgomery County Pennsylvania within ten (10) days of EPA's approval of the Title Notice. The Order also requires that EPA be provided with a certified copy of the recorded Title Notice within ten (10) days of recording such Title Notice.

B. At least thirty (30) days prior to the Transfer by any Respondent that is the Owner of any interest in property located within the Site including, but not limited to, fee interests, leasehold interests, and mortgage interests, such Respondent shall give the grantee or transferee-in-interest written notice of (1) the Order and (2) any Site access and use restriction requirements set forth in Section VIII of the Order (Access to and Use of the Site). At least thirty (30) days prior to such Transfer, such Respondent shall also give written notice to EPA and the Commonwealth of the proposed Transfer, including the name, address, and telephone number of the grantee or transferee-in-interest, and the date on which notice of the Order and Site access and use restriction requirements was given to the grantee.

4. Reserved Rights of Respondent: Constantia hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the advisory and rights recited herein.

5. Right of Entry provided by Law or Regulation: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access provided by law or regulation.

6. No Public Access and Use: This instrument does not grant any right of access or use to any portion of the Property to the general public.

7. Notice requirements: Constantia and any Owner of the Property shall include in any instrument conveying any interest in any portion of the Site including, but not limited to, deeds, leases and mortgages, a Disclosure which is in substantially the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A "NOTICE OF ACCESS OBLIGATIONS AND USE OF PROPERTY" AND THE TERMS, CONDITIONS AND RESTRICTIONS CONTAINED THEREIN, DATED _____. THE "NOTICE OF ACCESS OBLIGATIONS AND USE OF PROPERTY" WAS RECORDED ON _____ IN THE OFFICE OF THE RECORDER OF DEEDS FOR MONTGOMERY COUNTY, PENNSYLVANIA IN INSTRUMENT NO. _____, BOOK ___, PAGE ____.

Within thirty (30) days of the date any such instrument of conveyance is executed, EPA shall be provided with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

8. Notice to Parties: Any notice, demand, request, consent, approval, or communication that either EPA or Constantia desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:

Jerry Decker
Constantia Colmar, Inc.
92 County Line Road
Colmar, Pennsylvania.

To EPA:

Allison F. Gardner (3RC42)
Senior Assistant Regional Counsel
United States Environmental Protection Agency, Region III
1650 Arch Street

Philadelphia, PA 19103-2029

Phone: 215-814-2603

Fax: 215-814-2603

~~G~~ardner.allison@epa.gov

and

Sharon Fang (3HS21)

U.S. Environmental Protection Agency, Region III

1650 Arch Street

Philadelphia, PA 19103-2029

Phone: 215-814-3018

Fax: 215-814-3002

~~f~~ang.Sharon@epa.gov

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IN WITNESS WHEREOF, the Grantor herein, has executed the foregoing Declaration
this ____ day of _____, 2012.

Witness:

CONSTANTIA COLMAR, INC.

By: _____

Jerry Decker
Chief Executive Officer and President

COMMONWEALTH OF PENNSYLVANIA

:SS.

COUNTY OF _____

On this ____ day of _____ A.D. 2012, before me, the undersigned officer, a
Notary Public for the Commonwealth and County aforesaid, personally appeared **Jerry Decker**,
who acknowledges himself to be the Chief Executive Officer and President of Constantia
Colmar, Inc., the Declarant in the foregoing Notice of Access Obligations and Use Restrictions,
and as such Officer of Declarant he acknowledged that he is authorized to execute the
Declaration and that he executive the Declaration by signing the name of Constantia Colmar, Inc.
by himself as such Officer.

IN WITNESS WHEREOF, I have set my Hand and Seal of office the day and year
aforesaid.

Notary Public

My Commission Expires

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EXHIBIT A
[LEGAL DESCRIPTION OF PROPERTY]

ALL THAT CERTAIN lot or piece of ground with the buildings and improvements thereon erected, Situate in Montgomery Township, Montgomery County, Pennsylvania bounded and described according to a Plan of Survey of Existing Improvements made for County Line Land Corporation made by Charles E. Shoemaker, Inc., Engineers and Surveyors, dated November 5, 1979 as follows, to wit:

BEGINNING at a point on the center line of County Line Road (66.50 feet wide at this point, as widened from its original width of 33 feet by the addition of 33.50 feet on the Southwesterly side) (LR 09033), said point being at the distance of 1,092.00 feet measured Northwestwardly along the original center line of County Line Road from the point of intersection which the original center line of County Line Road makes with the center line of Richardson Lane (33 feet wide); thence extending from said point of beginning South 42 degrees 10 minutes 21 seconds West crossing the Southwesterly side of County Line Road and extending partially through the bed of a 44 feet wide drainage easement 520.00 feet to a point; thence extending South 68 degrees 45 minutes 24 seconds West 368.70 feet to a point at a corner; thence extending North 47 degrees 43 minutes 48 seconds West crossing the bed of an existing 8 inch V.P. Sanitary Sewer and also crossing the bed of a 20 feet wide sanitary sewer easement 467.51 feet to a point in line of lands now or late of San. M.H.; thence extending along the same the two following courses and distances: (1) North 43 degrees 21 minutes 12 seconds East 330.06 feet to a point; and (2) North 44 degrees 46 minutes 44 seconds East crossing the said Southwesterly side of County Line Road 519.14 feet to a point on the center line of County Line Road; thence extending along the same South 47 degrees 49 minutes 39 seconds East 611.16 feet to the first mentioned point and place of beginning.

BEING ASSESSMENT PARCEL NUMBER 46-00-00613-18-7.

TOGETHER with the free and uninterrupted use, liberty and privilege of and passage in and along a certain twenty foot wide easement for sanitary sewer as set forth in Deed of Easement between AEL Industries, Inc. and County Line Land Corporation dated February 27, 1979 and recorded March 26, 1978 in Deed book 4396 page 488 as follows, to wit:--

ALL THAT CERTAIN lot or tract of land Situate in the Township of Montgomery, Montgomery County, Commonwealth of Pennsylvania, bounded and described according to a Plan thereof made August 17, 1979 by Charles E. Shoemaker, Inc., Engineers and Surveyors, of Abington, Pennsylvania, as follows:--

BEGINNING at an interior point on line of land now or late of Stephen R. Buck said point being at the distance of eight hundred forty-nine and twenty-five one-hundredths feet (849.25')

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measured South forty-three degrees, forty-six minutes, forty-four seconds West (S 43° 46' 44" W) from a point in the original center line of County Line Road (66.50 feet wide at this point, as widened from its original width of 33 feet by the addition of 33.50 feet on the Southwesterly side) said point being at the distance of one thousand seven hundred three and sixteen one-hundredths feet (1703.16) measured Northwestwardly along the original center line of County Line Road from the point of intersection which the original center line of County Line Road makes with the original center line of Richardson Lane (originally 33 feet wide); thence extending through lands now or late of AEL Industries Inc., South forty-seven degrees, forty-three minutes, forty-eight seconds East (S 47° 43' 48" E) twenty and no one-hundredths feet (20.00') to a point; thence still through lands now or late of AEL Industries Inc., South forty-three degrees, forty-six minutes, forty-four seconds West (S 43° 46' 44" W) seven hundred thirty-one and ninety-three one-hundredths feet (731.93') to a point; thence still through lands now or late of AEL Industries Inc., North eighty-five degrees, thirteen minutes, sixteen seconds West (N 85° 13' 16" W) three hundred ninety-nine and seventy-six one-hundredths feet (399.76') to a point; thence still through lands now or late of AEL Industries Inc., North four degrees forty-six minutes forty-four seconds East (N 04° 46' 44" E) twenty and no one-hundredths feet (20.00') to a point; thence still through lands now or late of AEL Industries Inc., South eighty-five degrees, thirteen minutes, sixteen seconds East (S 85° 13' 16" E) three hundred ninety and twenty-four one-hundredths feet (390.24') to a point; thence partially through land now or late of AEL Industries Inc. and partially along land now or late of Stephen R. Buck, North forty-three degrees, forty-six minutes forty-four seconds East (N 43° 46' 44" E) seven hundred twenty-one and eighty-nine one-hundredths feet (721.89') to the first mentioned point and place of beginning.

BEING a twenty foot (20') wide easement for sanitary sewer through lands of AEL Industries Inc.

BEING the same premises which Upper Hanover Township Industrial Development Authority and County Line Land Limited Partnership, a Pennsylvania limited partnership, by Deed dated April 30, 1999, and recorded in Montgomery County Deed Book 5284, Page 15, granted and conveyed unto Hatfield Township Industrial Development Authority, in fee.

AND the said County Line Land Limited Partnership joined in the deed as grantor in order to terminate all of its right, title and interest in the above-described property pursuant to the terms and conditions of a certain Installment Sale Agreement dated March 12, 1980, a Memorandum of which is recorded in Montgomery County Deed Book 4509, Page 477, and an assignment of which was dated December 29, 1988 and recorded in Montgomery County Deed Book 4898, Page 785.

EXHIBIT B
[MAP DEPICTING THE SITE]

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EXHIBIT C
[ADMINISTRATIVE ORDER]